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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,707	02/20/2004	Robert Duensing	10877	5612

25203 7590 07/27/2005

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EXAMINER

WILSON, LEE D

ART UNIT PAPER NUMBER

3723

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/783,707	DUENSING, ROBERT	
	Examiner	Art Unit	
	LEE D. WILSON	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. The PVC pipe is not part of the invention and defining the diameter of the pipe does not further limit the claim because the structure of the tool is not being further limited. The structure of the tool must be limited and the workpiece.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by McClure (4493139).

McClure discloses a system having a first horseshoe shaped member (14) with a tension chain (38), a second bull-plate (note there is no structure to define a bull plate so it can be anything (12)), with a second tension chain (38), and a lever mechanism (52).

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by McClure (4722468).

McClure discloses a system having a first horseshoe shaped member (70) with a tension chain (86), a second bull-plate (note there is no structure to define a bull plate so it can be anything (72)), with a second tension chain (86), and a lever mechanism (90).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClure(4493139) in view of Carr (2755761).

b. McClure discloses the claimed invention except for plurality of chains extending from a first horse shaped member.

c. Carr discloses a system having a plurality of chains (fig.1 and element 22) extending from a first horse shaped member which provides an alternative holding system and horse shaped member.

d. It would have been obvious to having ordinary skill in the art at the time the invention was made to have modified the McClure device by replacing the first horse shaped

member with a member having a plurality of chains as taught by Carr which provides an alternative holding system and horse shaped member.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClure (4493139) as applied to claim 2 above, and further in view of Harrison (5640748).

e. The modified McClure teaches the claimed invention except for the mention of a workpiece such as pvc.

f. Harrison teaches a system having work pieces such as pvc (field of invention it is mentioned, line 10) which is just another known type of workpiece to be worked upon.

g. It would have been obvious to having ordinary skill in the art at the time the invention was made to have modified the McClure device by providing the pvc as a workpiece as taught by Harrison which is just another known type of workpiece to be worked upon.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClure (4722468) in view of Carr (2755761).

h. McClure discloses the claimed invention except for plurality of chains extending from a first horse shaped member.

i. Carr discloses a system having a plurality of chains (fig.1 and element 22) extending from a first horse shaped member which provides an alternative holding system and horse shaped member.

j. It would have been obvious to having ordinary skill in the art at the time the invention was made to have modified the McClure device by replacing the first horse shaped member with a member having a plurality of chains as taught by Carr which provides an alternative holding system and horse shaped member.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClure (4722468) as applied to claim 2 above, and further in view of Harrison (5640748).
- k. The modified McClure teaches the claimed invention except for the mention of a workpiece such as pvc.
- j. Harrison teaches a system having work pieces such as pvc (field of invention it is mentioned, line 10) which is just another known type of workpiece to be worked upon.

Response to Arguments

8. **Applicant's arguments filed 5/4/05 have been fully considered but they are not persuasive.**
9. **Applicant states that the prior art does not show tension chains.**
- b. The prior art clearly shows tension chains which are pointed out in the rejections. The tension chains also extend from the horseshaped member. Carr discloses the use of a plurality of chains which can easily be combined and changed to create a variety of combinations of chain sets.
10. **Applicant feels that all rejections are overcome.**
- c. The rejections are still felt to be valid and will stand. The 112 rejection has not been overcome because the workpiece is still being modified.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

July 22, 2005

A handwritten signature in black ink, appearing to read 'Lee D. Wilson', with a stylized, cursive script.

LEE D. WILSON
PRIMARY EXAMINER